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SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-78745; File No. SR-BatsEDGX-2016-48)

September 1, 2016

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Delay the Implementation of the Options Regulatory Fee

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 22, 2016, Bats EDGX Exchange, Inc. (the “Exchange” or “EDGX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to delay implementation of recently enacted amendments to the fee schedule applicable to Members<sup>5</sup> and non-Members of the Exchange pursuant to EDGX Rules 15.1(a) and (c) to adopt an Options Regulatory Fee (“ORF”).

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

<sup>5</sup> A Member is defined as “any registered broker or dealer that has been admitted to membership in the Exchange.” See Exchange Rule 1.5(n).

The text of the proposed rule change is available at the Exchange's website at [www.batstrading.com](http://www.batstrading.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently submitted a proposed rule change to modify the fee schedule applicable to the Exchange's options platform ("EDGX Options") to adopt an ORF in the amount of \$0.0002 per contract side.<sup>6</sup> The Exchange proposed to assess the per-contract ORF to each Member and non-Member for all options transactions cleared by OCC in the "customer" range, regardless of the exchange on which the transaction occurs. In order to provide market participants additional time to assess the impact of the ORF on their transactions and order execution scenarios, the Exchange is delaying the implementation date of the fee until February 1, 2017.<sup>7</sup>

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<sup>6</sup> See Securities Exchange Release No. 78452 (August 1, 2016), 81 FR 51951 (August 5, 2016) (SR-BatsEDGX-2016-33).

<sup>7</sup> The Exchange noted in its proposal and included text in its fee schedule that it may only increase or decrease the ORF semi-annually, and any such fee change will be effective on the first business day of February or August. *Id.* See also the Exchange's fee schedule

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.<sup>8</sup> The Exchange also believes that its proposal furthers the objectives of Section 6(b)(5) of the Act<sup>9</sup> in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes delaying the implementation of ORF will provide market participants additional time to assess the impact of the ORF on their transactions and order execution scenarios, and that implementation of the fee on February 1, 2017 will benefit investors and the public interest.<sup>10</sup>

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The ORF is

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available at [http://batstrading.com/support/fee\\_schedule/edgx/](http://batstrading.com/support/fee_schedule/edgx/) (dated August 5, 2016). The Exchange initially filed the proposed fee change on August 11, 2016 (SR-BatsEDGX-2016-43). On August 19, 2016, the Exchange withdrew SR-BatsEDGX-2016-43 and submitted SR-BatsEDGX-2016-47. On August 22, 2016, the Exchange withdrew SR-BatsEDGX-2016-47 and submitted this filing.

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> The Exchange notes that other exchanges have delayed the implementation of fees that were previously published by the Commission. See Securities Exchange Act Release Nos. 72605 (July 14, 2014), 79 FR 42066 (July 18, 2014) (SR-Phlx-2014-44); 67068 (May 29, 2012), 77 FR 33256 (June 5, 2012) (SR-Nasdaq-2012-064); 66287 (February 1, 2012), 77 FR 6161 (February 7, 2012) (SR-FINRA-2012-008); and 57183 (January 22, 2008), 73 FR 5249 (January 29, 2008) (SR-Nasdaq-2008-007).

not intended to have any impact on competition. Rather, it is designed to enable the Exchange to recover a material portion of the Exchange's cost related to its regulatory activities. Therefore, the Exchange does not believe delaying the implantation of ORF till February 1, 2017 will have any impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>12</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-BatsEDGX-2016-48 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File No. SR-BatsEDGX-2016-48. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer

to File No. SR-BatsEDGX-2016-48, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

Robert W. Errett  
Deputy Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).

